



City of Cleveland

Michael R. White, Mayor

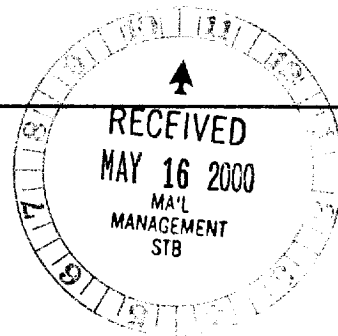
Department of Law

Cornell P. Carter, Director

601 Lakeside Avenue, Room 106

Cleveland, Ohio 44114-1077

216/664-2800 • Fax 216/664-2663



May 15, 2000

The Honorable Vernon A. Williams, Secretary
Office of the Secretary
Case Control Unit
Attn: STB Ex Parte No. 582 (Sub-No.1)
The Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

ENTERED
Office of the Secretary

MAY 16 2000

Part of
Public Record

Re: Major Rail Consolidation Procedure,
Ex Parte 582 (Sub-No. 1)

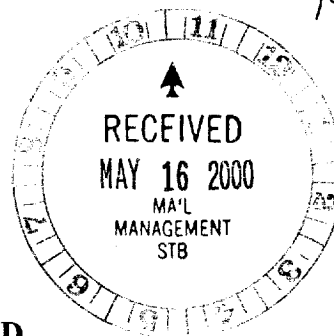
Dear Sir:

I am enclosing an original and twenty-five copies of the Comments on Modifications to Regulations Governing Major Rail Consolidations Submitted by the City of Cleveland, Ohio, to be filed in the above referenced proceeding. An additional copy is enclosed for date-stamp and to be returned in the enclosed self-addressed stamped envelope. Please note that a diskette in Microsoft Word 97 format is also enclosed.

Very truly yours,

Richard F. Horvath
Chief Corporate Counsel
City of Cleveland

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**Before the
SURFACE TRANSPORTATION BOARD
Washington, D.C. 20423**

**ENTERED
Office of the Secretary**

MAY 16 2000

Public Record

EX PARTE NO. 582 (Sub-No. 1)

MAJOR RAIL CONSOLIDATION PROCEDURES

**COMMENTS ON MODIFICATIONS TO REGULATIONS GOVERNING
MAJOR RAIL CONSOLIDATIONS
SUBMITTED BY
THE CITY OF CLEVELAND, OHIO**

Communications with respect to this
document should be addressed to:

Cornell P. Carter
Director of Law
Richard F. Horvath
Chief Corporate Counsel
City of Cleveland
Department of Law - Room 106
601 Lakeside Avenue
Cleveland, Ohio 44114
(216) 664-2675

Counsel for the City of Cleveland, Ohio
Dated: May 15, 2000

**Before the
SURFACE TRANSPORTATION BOARD
Washington, D.C. 20423**

EX PARTE NO. 582 (Sub-No. 1)

MAJOR RAIL CONSOLIDATION PROCEDURES

**COMMENTS ON MODIFICATIONS TO REGULATIONS GOVERNING
MAJOR RAIL CONSOLIDATIONS
SUBMITTED BY
THE CITY OF CLEVELAND, OHIO**

The City of Cleveland, Ohio, by its undersigned counsel, hereby submits its comments on possible modifications to the regulations of the Surface Transportation Board (“Board”) governing proposals for major rail consolidations.

The City of Cleveland has direct experience with the impacts resulting from major rail consolidations as a result of the recent acquisition of Consolidated Rail Corporation (“Conrail”) by CSX Transportation, Inc. (“CSXT”) and Norfolk Southern Corporation (“NS”), which was before the Surface Transportation Board at Finance Docket No. 33388. As a result of that proceeding, the City of Cleveland and its citizens have had to contend with numerous impacts which are described generally in the Board’s regulations

as “the quality of the human environment and the conservation of energy resources.” 49 C.F.R. §1180.1(b)(2). Yet, the City of Cleveland has experienced problems which the Board’s regulations do not expressly reference or address. Through this filing, the City of Cleveland wants to bring these impacts to the attention of the Board with the request that the Board’s regulations be modified to include consideration of these impacts as part of the process for evaluating future major rail consolidations.

Many of the City of Cleveland’s comments relate to adverse environmental impacts resulting from increased rail traffic and alterations in railroad operations necessitated by the consolidations and changes in ownership of the carrier facilities. These impacts should be considered by the Board as it reviews its regulations regarding rail mergers and the Board should require the carriers to address these impacts in their plans.

A. Impacts Resulting from Increased Numbers of Stopped and Idling Trains

The Board’s proceedings into proposed mergers and acquisition of rail carriers emphasize the impacts caused by the noise and disruptions caused by moving trains. Emphasis is placed on increased rail traffic through local communities. Yet, many of the problems that Cleveland citizens are experiencing as result of the acquisition of Conrail by CSXT and NS relate to stopped and idling trains.

1. Noise

The impacts caused by the noise generated by idling train, as well as the crashing sounds of a train as it stops and starts, are not adequately considered under the

Board's regulations. Yet these noises have a severe impact on a local community. The rumble of idling trains over long periods of time and the sharp, piercing noises caused by trains as they stop and start can be more disruptive to a neighboring community than the sound of a train quickly passing through. This impact is particularly true at night when noise is amplified. In addition, because an emphasis is placed on moving trains, the impact on people residing near intermodal facilities, train yards, sidings and repair facilities is not properly studied.

2. Impact Resulting from Converting a Secondary Line to a Main Line

In Cleveland, the acquisition of Conrail by CSXT and NS resulted in the conversion of a secondary rail line into a main rail line. The increased rail activity on this new main line has included a significant increase in the stopping, idling and re-starting of trains. The railroad claims that this activity is part of normal daily use of the main line. Yet noise mitigation studies for the neighborhoods adjoining this new main line were based upon a projected number of trains passing through this community at a given speed. Those studies do not address or propose mitigation for the noise caused by the "normal daily activity" of stopping and idling trains in that area.

3. Blocked At-Grade Crossings

The health and safety impacts caused by increased numbers of stopped trains and the resulting blockage of at-grade crossings throughout the City of Cleveland was

never adequately studied or addressed. While the City of Cleveland is fortunate that the number of at-grade crossings within its municipal boundaries is low compared with the total miles of track in the City, Cleveland is not immune to the effects of blocked crossings. When trains block crossings, some City neighborhoods are cut off from emergency services. In recent months, Cleveland has experienced two major incidents where trains blocked crossings for several hours. The residents affected by the stopped trains were faced with the reality of possible delays in police, fire and emergency medical services. Also, blocked crossings generate significant economic development concerns in the community. Businesses cannot service customers and neighborhoods become less attractive for development. The number of stopped trains and the length of time that crossings are blocked was not accurately addressed in studies conducted in response to the recent application to acquire Conrail.

4. Pollution

The impact of emissions from trains that sit and idle for hours, even days, are not adequately studied under the Board's regulations. The thick, black smoke emitted from the trains leaves black soot on anything within one hundred feet of the train. This pollution is of grave concern to residents living near tracks where these trains sit idling.

The Board should provide a process in its regulations for the study and remediation of the numerous problems caused by increased numbers of stopped and idling trains resulting from major rail consolidations.

B. Impact of Increased Horn Noise and Train Vibrations

While the Board's regulations require examination of increases in wheel rail noise resulting from major rail consolidations within areas exposed to a 70 dBA L_{dn} , horn noise and vibrations caused by passing trains are not adequately considered. Yet horn noise and train vibrations can have a tremendous impact on the daily lives of citizens in close proximity to the tracks. While federal law mandates that horns sound when trains approach a crossing or when the crew observes someone or something on the tracks, there are no regulations concerning how loud or how long the horn should sound. These decisions are left to the discretion of the crew. In Cleveland, some residents are able to identify the crew of a particular train based solely upon how the horn is sounded. Unreasonable horn noise and train vibration constitutes a nuisance and is extremely annoying to citizens living nearby. Moreover, it would be more realistic to include areas exposed to a 65 dBA L_{dn} in future noise studies in addition to considering horn noise and vibrations for mitigation purposes.

C. Inadequate Property Maintenance

Along with the benefits of major railroad consolidations, the companies need to take responsibility for properly maintaining the assets they are assuming control of or acquiring. After the Board's proceedings are completed, it can prove extremely difficult

for local communities to get the railroads to effectively maintain railroad sites by removing debris and vegetation which is causing potential health concerns. As part of the Board's examination of major railroad consolidations, the railroads should be required to develop a meaningful process for addressing complaints about the condition of railroad property and to develop a minimum maintenance plan for railroad property which adjoins residential neighborhoods. It is the responsibility of all property owners in the City of Cleveland to clean and maintain their property. Basic quality of life issues such as the clean up and maintenance of railroad property should be addressed by the Board in its regulations.

A related problem concerns the storage of rail ties for long periods of time in close proximity to residential neighborhoods. Recently, a City resident experienced an allergic reaction to the rail ties stored near her home that were treated with creosote. Although this particular incident was resolved without any serious injury, the Board should consider the issue of storage of materials by the railroads near residential neighborhoods prior to approving future major railroad consolidations.

D. Improved Identification of Sensitive Receptors to be Studied

While the Board retains consultants to study the adverse impacts on sensitive receptors in a community resulting from major rail consolidations, the method employed to identify the receptors is inadequate. Currently, receptors in a community are identified by means of aerial photographs within the 70 dBA L_{dn} contour. These photographs are difficult to interpret, however, and often are missing pertinent information. The Board's

regulations should require field visits and updated mapping for the identification of sensitive receptors.

E. Compatible Information Systems between Railroads

Since the railroad industry is highly computerized, the Board should require compatible computer systems between the parties to a major railroad consolidation. In Cleveland, NS' computer system did not recognize the Conrail locomotive numbers and subsequent operations were disrupted. This incompatibility of information systems resulted in blocked at-grade crossings, stopped and idling trains throughout the region and delayed shipments.

F. Consideration of All Rail Traffic

The Board's regulations do not consider all rail traffic when analyzing the impact from a proposed consolidation. Amtrack trains and rail traffic that is considered "light movements" are not considered. The true impact of a proposed major railroad consolidation on a community can only be understood if all rail traffic is studied.

Conclusion

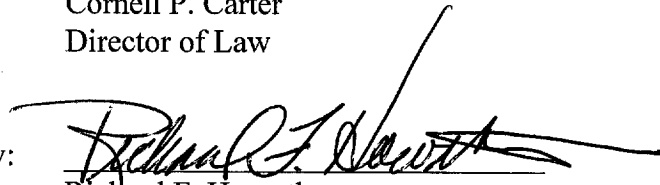
Major rail consolidations can have an enormous impact upon a community. The burdens imposed on the citizens adjoining the rail lines affected by increases in rail traffic can be far-reaching and potentially devastating. The Board has the ability to specify in its regulations that a comprehensive and complete examination of these community impacts is examined before a major rail consolidation is approved. The City of Cleveland

respectfully requests that the Board amend its regulations to insure that the interests of the neighboring communities are protected.

Respectfully submitted,

Cornell P. Carter
Director of Law

By:

A handwritten signature in black ink, appearing to read "Richard F. Horvath", is written over a horizontal line.

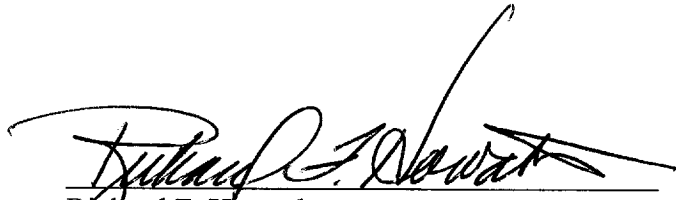
Richard F. Horvath
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City of Cleveland
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601 Lakeside Avenue
Cleveland, Ohio 44114
(216) 664-2675

Counsel for the City of Cleveland, Ohio

Dated: May 15, 2000

CERTIFICATE OF SERVICE

I hereby certify that on May 15, 2000, a copy of the foregoing Comments on Modifications to Regulations Governing Major Rail Consolidations Submitted by the City of Cleveland, Ohio was served by first class mail, postage prepaid, upon all Parties of Record in this Proceeding.

A handwritten signature in black ink, appearing to read "Richard F. Horvath", is written over a horizontal line.

Richard F. Horvath
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City of Cleveland
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